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Issued by the  
**FILED**  
 UNITED STATES DISTRICT COURT

NORTHERN DISTRICT

DISTRICT OF CALIFORNIA 2008 AUG 10 3 37

SUBPOENA IN A CIVIL CASE

 CLERK  
 U.S. DISTRICT COURT  
 NO. DIST. OF CA. S.J.
Case Number:<sup>1</sup>

CV 08 - 80153 MISC.

JW

HRL

V.

 TO: GOOGLE, INC.  
 1600 Amphitheatre Parkway  
 Mountain View, California 94043

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A.

 PLACE The Law Office of James A. Holmes  
 605 S. Main, Suite 203, Henderson, Texas 75654

DATE AND TIME

September 5, 2008

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR

DATE

8/5/08

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

 James A. Holmes  
 605 S. Main, Suite 203  
 Henderson, Texas 75654  
 ((03) 657-2800

(See Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

**DEFINITIONS & INSTRUCTIONS**

1. "YOU", "YOUR" or "YOURS" refers to Google, Inc. ("GOOGLE"), including without limitation all of its corporate locations and all predecessors, subsidiaries, parents & affiliates and all past or present directors, officers, partners, associates, employees, staff members, agents, representatives, consultants, attorneys, and entities acting in joint-venture, affiliate, partnership or business relationship with GOOGLE and other acting on behalf of GOOGLE.
2. The term "DOCUMENT" is used herein in this broadest sense under the Federal Rules of Civil Procedure and applicable case law and includes all tangible things, all originals (or, if originals are not available, identical copies thereof), archives, all non-identical copies of all documents, all drafts of final documents, all other written, printed, or recorded matter of any kind and all other data compilations from which information can be obtained that are or have been in your actual or constructive possession or control, regardless of the medium on which they are produced, reproduced or stored (including with limitation computer programs and files containing any requested information), and any recording or writing as these terms are defined in Rule 1001 of the Federal Rules of Evidence. Any document bearing marks, including without limitation initials, stamped initials, comments, or notations not part of the original text or photographic reproduction thereof is a separate document.
3. The terms "REFER" or "RELATE" or any variant thereof include, but are not limited to, the following meanings: pertaining to, analyzing, assessing, compromising, concerning, containing, constituting, discussing establishing, mentioning, containing, evidencing, describing, displaying, showing, identifying, including, recording, reflecting, stating,





proving, disproving, consisting of, supporting, contradicting, in any way legally, logically, or factually connected with the matters referenced, or having tendency to prove or disapprove any matter referenced.

4. The term "COMMUNICATION" or any variant thereof means any contact between or among two or more persons and shall include, without limitation, written contact by means such as letters, memoranda, telegrams, telecopies, telexes, e-mail or any other document; and any writings memorializing any oral contact such as face to face meetings or telephone conversations.
5. The term "THE BLOGS" shall mean the internet message boards and blog sites found at [www.trolltracker.blogspot.com](http://www.trolltracker.blogspot.com) (a/k/a the "TrollTracker") and [www.patentlyo.com](http://www.patentlyo.com) (a/k/a "Patently O)."

**DOCUMENTS REQUESTED**

1. All DOCUMENTS REFRRING or RELATING to COMMUNICATIONS to or from (1) RICHARD FRENKEL a/k/a "The TrollTracker," (2) DENNIS CROUCH, individually and *sub. nom.* "Patently O," (3) MALLUN YEN, (4) JOHN NOH, (5) Mark Chandler, (6) CISCO SYSTEMS, INC. or (7) THE BLOGS regarding (1) ERIC M. ALBRITTON; (2) the filing of Civil Action No. 5:07-CV-00156, styled *ESN, LLC v. Cisco Systems, Inc.*, in the United States District Court for the Eastern District of Texas; or (3) the October 16-17, 2007 postings on [www.trolltracker.blogspot.com](http://www.trolltracker.blogspot.com).
2. All DOCUMENTS REFRRING or RELATING to COMMUNICATIONS with or responses posted to THE BLOGS regarding (1) ERIC M. ALBRITTON; (2) the filing of Civil Action No. 5:07-CV-00156, styled *ESN, LLC v. Cisco Systems, Inc.*, in the United States District Court for the Eastern District of Texas; or (3) the October 16-17, 2007 postings on [www.trolltracker.blogspot.com](http://www.trolltracker.blogspot.com).
3. All DOCUMENTS REFRRING or RELATING to user searches of the internet and/or THE BLOGS regarding (1) ERIC M. ALBRITTON; (2) the filing of Civil Action No. 5:07-CV-00156, styled *ESN, LLC v. Cisco Systems, Inc.*, in the United States District Court for the Eastern District of Texas; or (3) the October 16-17, 2007 postings on the [www.trolltracker.blogspot.com](http://www.trolltracker.blogspot.com) including documents reflecting the number of such searches conducted between October 16, 2007 and March 1, 2008.
4. All DOCUMENTS REFRRING or RELATING to the establishment, creation, maintenance and financial support for THE BLOGS.

***IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION***

**ERIC M. ALBRITTON,**

**Plaintiff,**

**v.**

**(1) CISCO SYSTEMS, INC., (2) RICHARD  
FRENKEL, (3) MALLUN YEN and  
(4) JOHN NOH,**

**Defendants.**

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**NO. 6:08-CV-00089**

**PLAINTIFF'S NOTICE OF SUBPOENA**

***TO ALL PARTIES AND THEIR COUNSEL OF RECORD:***

***PLEASE TAKE NOTICE*** that, pursuant to Rules 30 and 45, Fed. R. Civ. P., Plaintiff will serve the attached Subpoena on the Custodian of Records for Google, Inc. ("Google") requesting production of the documents and things described in Exhibit A on or before September 5, 2008, at the offices of the undersigned Counsel of Record.

Respectfully submitted,

By:                     /s/                      
James A. Holmes  
State Bar No. 00784290

***THE LAW OFFICE OF JAMES HOLMES, P.C.***

605 SOUTH MAIN, SUITE 203  
HENDERSON, TEXAS 75654  
(903) 657-2800  
(903) 657-2855 (fax)  
[jh@jamesholmeslaw.com](mailto:jh@jamesholmeslaw.com)

***ATTORNEY FOR PLAINTIFF***



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Subpoena has been duly served on all parties via the electronic filing system of the Eastern District of Texas on this, the 5<sup>th</sup> day of August 2008.

\_\_\_\_\_/s/\_\_\_\_\_  
James A. Holmes



## THE LAW OFFICE OF JAMES HOLMES

A PROFESSIONAL CORPORATION

BOARD CERTIFIED PERSONAL INJURY TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

JH@JAMESHOLMESLAW.COM

August 5, 2008

District Clerk  
U.S. District Court, Northern District of California  
San Jose Division  
280 South First Street  
San Jose, CA. 95113

*Re: Open Miscellaneous Case*

Dear Sirs:

Enclosed for filing please find Plaintiff's Notice of Subpoena. I am requesting that you open a miscellaneous case so that I may serve this Subpoena. I am enclosing my firm's check in the amount of \$39.00 in payment of the filing fee. Please sign the subpoena and return to my office in the self-addressed, envelope enclosed.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

James A. Holmes

JAH:lt  
Enclosure